

---

# **Civil Justice Committee**

**April 4th, 2006  
10:15 AM – 11:00 AM  
24 House Office Building**

# **Committee Action**

## COMMITTEE MEETING REPORT

### Civil Justice Committee

4/4/2006 10:15:00AM

Location: 24 HOB

#### Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Mark Mahon (Chair)	X		
Dean Cannon	X		
Marti Coley	X		
Carl Domino	X		
Arthenia Joyner	X		
Irving Slosberg	X		
John Stargel	X		
<b>Totals:</b>	<b>7</b>	<b>0</b>	<b>0</b>

Committee meeting was reported out: Tuesday, April 04, 2006 12:15:40PM

# COMMITTEE MEETING REPORT

## Civil Justice Committee

4/4/2006 10:15:00AM

Location: 24 HOB

HB 173 CS : Construction Contracts

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 7		Total Nays: 0			

### Appearances:

Construction Contracts

John R. Piotti - Proponent

RDC-USA & Subcontractors in General

8200 Bryan Dairy Road

Largo FL 33777

Phone: 727-460-5499

Construction Contracts

Laura Pearce (Lobbyist) - Proponent

FL Assoc. of Insurance Agents

Construction Contracts

Warren Husband (Lobbyist) - Proponent

Association of General Contractors

P. O. Box 10909

Tallahassee FL 32302

Phone: 850-205-9000

Construction Contracts

James Mosteller (Lobbyist) - Proponent

FL Roofing & Sheet Metal

3816 Shamrock St. W

Tallahassee FL 32309

Phone: 850-345-7885

Committee meeting was reported out: Tuesday, April 04, 2006 12:15:40PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 0173 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

*1*  
*Superseded*  
*by Substitute*

Council/Committee hearing bill: Civil Justice Committee

Representative Cannon offered the following:

**Amendment**

Remove line 36 and insert:

insurance policy or certificate of insurance in writing within 7



(A) w/o

Committee on

Civil Justice

Action

Date

4/4

HOUSE AMENDMENT FOR DRAFTING PURPOSES ONLY

(may be used in Committee, but not on House Floor)

Amendment No. 1

Bill No. 0173 CS

(For filing with the Clerk, Committee and Member Amendments **must** be prepared on computer)

If amendment is text of another bill insert:

Bill No. \_\_\_\_\_

Draft No. \_\_\_\_\_

Representative(s)/The Committee on Stargel

offered the following <sup>substitute</sup> amendment:

Amendment 1 ; Remove

on page 2 , line s 36-37 , and insert

insurance policy or certificate of insurance in writing within 30 business days for  
commercial construction projects and 7 business days for residential construction  
projects after receipt of the insurance policy or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. **HB 0173 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

(A) 2  
w/o

Council/Committee hearing bill: Civil Justice Committee

Representative Cannon offered the following:

**Amendment (with title amendment)**

Between line(s) 81 and 82, insert:

(5) This section shall not apply if at the time of the request for proposals or bids, or prior to the subcontractor, sub-subcontractor, or materialman commencing work or supplying materials under the construction contract, the general contractor or subcontractor provides a sample of an acceptable certificate of insurance or a one page schedule accurately reflecting all insurance requirements which extend coverage rights to an additional insured for that contract to the subcontractor, sub-subcontractor, or materialman and the insurance provided by the subcontractor, sub-subcontractor, or materialman does not comply with the construction contract. A schedule or sample certificate of insurance issued under this subsection shall not be deemed to amend or modify the contract between the parties in any way or to waive any requirement of the contract unless the schedule or certificate expressly states that such an amendment, modification, or waiver is intended.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

22        (6) This section shall apply to contracts entered into on  
23        or after July 1, 2006.

24  
25        ===== T I T L E   A M E N D M E N T =====

26        Remove line 18 and insert:  
27        policies of insurance on certain grounds; specifying  
28        nonapplication of construction contract insurance provisions  
29        under certain circumstances; providing construction; providing  
30        for when certain provisions will be applied; providing an

## COMMITTEE MEETING REPORT

### Civil Justice Committee

4/4/2006 10:15:00AM

Location: 24 HOB

HB 457 CS : Guardianship

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 7		Total Nays: 0			

#### Appearances:

##### Guardianship

Darrick D. McChée (Lobbyist) (State Employee) - Information Only

FL Dept. of Elder Affairs

4040 Esplanade Way

Tallahassee FL 32399

Phone: 850-414-2000

##### Guardianship

Mel Grossman (State Employee) - Proponent

Guardianship Task Force

201 SE 6th St.

Ft. Lauderdale FL 33301

Phone: 954-821-7759

Committee meeting was reported out: Tuesday, April 04, 2006 12:15:40PM



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 0457 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	— (Y/N)
ADOPTED AS AMENDED	— (Y/N)
ADOPTED W/O OBJECTION	— (Y/N)
FAILED TO ADOPT	— (Y/N)
WITHDRAWN	— (Y/N)
OTHER	—

**(A)**  
**1**  
**W/O**

1 Council/Committee hearing bill: Civil Justice Committee  
2 Representative(s) Sands offered the following:

3  
4 **Amendment**

5 Remove line 742 and insert:  
6 qualified to be members of an examining committee.  
7

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. HB 0457 CS

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

*(A)* *2*  
*W/O*

Council/Committee hearing bill: Civil Justice Committee  
Representative(s) *Stacy* offered the following:

**Amendment (with title amendment)**

Remove line(s) 1368-1439.

===== T I T L E A M E N D M E N T =====

Remove line(s) 140-149 and insert:  
F.S., in a reference thereto; providing an

# COMMITTEE MEETING REPORT

## Civil Justice Committee

4/4/2006 10:15:00AM

Location: 24 HOB

HB 459 : Public Records

☒ Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Dean Cannon	X				
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 7		Total Nays: 0			

Committee meeting was reported out: Tuesday, April 04, 2006 12:15:40PM

## COMMITTEE MEETING REPORT

### Civil Justice Committee

4/4/2006 10:15:00AM

Location: 24 HOB

HB 817 CS : Telecommunications Carriers of Last Resort

☒ Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Dean Cannon	X				
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
<b>Total Yeas: 7</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Tuesday, April 04, 2006 12:15:40PM

## COMMITTEE MEETING REPORT

### Civil Justice Committee

4/4/2006 10:15:00AM

Location: 24 HOB

HB 857 : Insurance Premium Tax

<input checked="" type="checkbox"/> Favorable					
	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Dean Cannon	X				
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 7		Total Nays: 0			

#### Appearances:

Insurance Premium Tax

Joy Ryan (Lobbyist) - Proponent

Fidelity National Financial

204 S. Monroe St.

Tallahassee FL 32301

Phone: 850-681-6710

Insurance Premium Tax

Abby London (Lobbyist) (State Employee) - Proponent

Office of Insurance Regulation

200 E. Gaines St.

Tallahassee FL 32399

Phone: 850-413-5005

Committee meeting was reported out: Tuesday, April 04, 2006 12:15:40PM

## COMMITTEE MEETING REPORT

Civil Justice Committee

4/4/2006 10:15:00AM

Location: 24 HOB

HB 1323 : Actions Involving Free Speech or Defamation

☒ Not Considered

Committee meeting was reported out: Tuesday, April 04, 2006 12:15:40PM

## COMMITTEE MEETING REPORT

### Civil Justice Committee

4/4/2006 10:15:00AM

Location: 24 HOB

HB 1521 : Children in Out-of-Home Placements

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 7		Total Nays: 0			

#### Appearances:

Children in Out-of-Home Placements

Chelsea Hall - Proponent

Florida Children First

Committee meeting was reported out: Tuesday, April 04, 2006 12:15:40PM

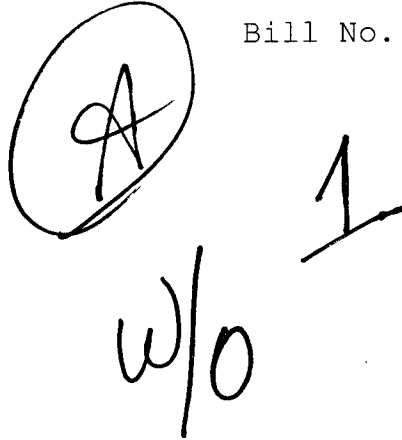
HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 1521**

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_



Council/Committee hearing bill: Civil Justice Committee  
Representative(s) Barreiro offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Subsection (17) is added to section 39.402,  
Florida Statutes, to read:

39.402 Placement in a shelter.--

(17) The court shall inquire of the parent as to whether  
the child has any relatives who might be considered as a  
placement. The parent shall provide the name and location  
information of any such relatives or other adults who might be  
considered a placement to the court and all parties. The court  
shall advise the parent that if the parent knows of any relative  
or other adult who wishes to be considered as a placement, it is  
the parent's duty to notify the court and assist the department  
in locating them.

Section 2. Paragraph (d) of subsection (1) of section  
39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition. --

(1) A disposition hearing shall be conducted by the court,  
if the court finds that the facts alleged in the petition for



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition; have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(d) The court shall, in its written order of disposition, include all of the following:

1. The placement or custody of the child.
2. Special conditions of placement and visitation.
3. Evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered.
4. The persons or entities responsible for supervising or monitoring services to the child and parent.
5. Continuation or discharge of the guardian ad litem, as appropriate.
6. The date, time, and location of the next scheduled review hearing, which must occur within the earlier of:
  - a. Ninety days after the disposition hearing;
  - b. Ninety days after the court accepts the case plan;
  - c. Six months after the date of the last review hearing;or
  - d. Six months after the date of the child's removal from his or her home, if no review hearing has been held since the child's removal from the home.
7. If the child is in an out-of-home placement, child support to be paid by the parents, or the guardian of the child's estate if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child. The court may exercise jurisdiction over all child support matters, shall adjudicate the financial obligation, including

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

54 health insurance, of the child's parents or guardian, and shall  
55 enforce the financial obligation as provided in chapter 61. The  
56 state's child support enforcement agency shall enforce child  
57 support orders under this section in the same manner as child  
58 support orders under chapter 61. Placement of the child shall  
59 not be contingent upon issuance of a support order.

60 8.a. If the court does not commit the child to the  
61 temporary legal custody of an adult relative, legal custodian,  
62 or other adult approved by the court, the disposition order  
63 shall include the reasons for such a decision and shall include  
64 a determination as to whether diligent efforts were made by the  
65 department to locate an adult relative, legal custodian, or  
66 other adult willing to care for the child in order to present  
67 that placement option to the court instead of placement with the  
68 department.

69 b. ~~If diligent efforts are made to locate an adult~~  
70 ~~relative willing and able to care for the child but, because no~~  
71 ~~suitable relative is found, and the child is placed with the~~  
72 ~~department or a legal custodian or other adult approved by the~~  
73 ~~court, both the department and the court shall consider~~  
74 ~~transferring temporary legal custody to an adult relative~~  
75 ~~approved by the court at a later date, but neither the~~  
76 ~~department and nor the court may not is obligated to so place~~  
77 ~~the child if it is in the child's best interest to remain in the~~  
78 ~~current placement.~~

79 Section 3. Section 39.522, Florida Statutes, is amended to  
80 read:

81 39.522 Postdisposition change of custody.-- The court may  
82 change the temporary legal custody or the conditions of  
83 protective supervision at a postdisposition hearing, without the  
84 necessity of another adjudicatory hearing. The standard for

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

85 changing the custody of the child shall be the best interest of  
86 the child.

87 (1)(a) A child who has been placed in the child's own home  
88 under the protective supervision of an authorized agent of the  
89 department, in the home of a relative, in the home of a legal  
90 custodian, or in some other place may be brought before the  
91 court by the department or by any other interested person, upon  
92 the filing of a petition alleging a need for a change in the  
93 conditions of protective supervision or the placement.

94 (b) If any party or the actual custodian of the child  
95 objects to a change in placement~~If the parents or other legal~~  
96 ~~eustodians deny the need for a change,~~ the court shall conduct  
97 an evidentiary hearing and hear all parties and the actual  
98 custodian in person or by counsel, or both.

99 (c) When the proposed change of placement is to any person  
100 other than a parent, the decision may not be based solely on the  
101 existence of a biological or prospective adoptive relationship  
102 with a placement or on the expressed wishes of a parent,  
103 caregiver or relative. The court's best interest determination  
104 shall be based on evidence admitted at the hearing and shall  
105 include an evaluation of, and entry of findings as to, all  
106 factors affecting the welfare of the child, including but not  
107 limited to:

108 1. The ability of the current and proposed custodians to  
109 provide for the safety, well-being, physical, mental and  
110 emotional health of the child;

111 2. The love, affection, and other emotional ties existing  
112 between the child and the current and proposed custodians;

113 3. The length of time the child has lived in a stable,  
114 satisfactory environment and the desirability of maintaining  
115 continuity; and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

116        4. The preference of the child, if the court deems the  
117 child to be of sufficient intelligence, understanding and  
118 experience to express a preference.

119        (2) Upon the admission of a need for a change or after  
120 such hearing, the court shall enter an order changing the  
121 placement, modifying the conditions of protective supervision,  
122 or continuing the conditions of protective supervision as  
123 ordered. ~~The standard for changing custody of the child shall be~~  
124 ~~the best interest of the child.~~ If the child is not placed in  
125 foster care, then the new placement for the child must meet the  
126 home study criteria and court approval pursuant to this chapter.

127        ~~(3)(2)~~ In cases where the issue before the court is  
128 whether a child should be reunited with a parent, the court  
129 shall determine whether the parent has substantially complied  
130 with the terms of the case plan to the extent that the safety,  
131 well-being, and physical, mental, and emotional health of the  
132 child is not endangered by the return of the child to the home.

133        Section 4. Paragraph (d) of subsection (6) of section  
134 63.082, Florida Statutes, is amended to read:

135        63.082 Execution of consent to adoption or affidavit of  
136 nonpaternity; family social and medical history; withdrawal of  
137 consent.--

138        (6)

139        (d) Subject to consideration of the factors listed in s.  
140 39.522(1), when any child has resided in the same out-of-home  
141 placement for more than 1 year prior to the filing of a motion  
142 under this subsection, in determining whether the best interest  
143 of the child will be served by transferring the custody of the  
144 minor child to the prospective adoptive parent selected by the  
145 birth parent, the court shall give consideration to the rights  
146 of the birth parent to determine an appropriate placement for

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

the child, the permanency offered, the child's bonding with any potential adoptive home that the child has been residing in, and the importance of maintaining sibling relationships, if possible.

Section 5. Subsection (18) is added to section 120.80, Florida Statutes, to read:

120.80 Exceptions and Special requirements; agencies.--

(18) Agency for Persons with Disabilities.--

Notwithstanding subsection (7), hearings shall be conducted by an administrative law judge assigned by the division in cases involving children with developmental disabilities who are in the custody of the department and placed in out-of-home care who apply for, are denied, or receive reduced developmental disability services under chapter 393.

Section 6. This act shall take effect July 1, 2006.

===== T I T L E   A M E N D M E N T =====

Remove the entire title and insert:

An act relating to children in out-of-home placements; amending s. 39.402, F.S.; providing that a court must be provided with a name and location of individual who might be considered for placement of a child; amending 39.521, F.S.; deleting requirement to use diligent efforts to located adult relative to care for a child; amending 39.522, F.S.; providing standard for changing the custody of a child; providing for an evidentiary hearing when there is an objection to the placement of a child; providing factors a court must consider in determining a change of placement to any person other than a parent; amending 63.082, F.S.; providing factors for when a child has resided in the same out-of-home placement for more than 1 year; amending 120.80,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

177 F.S.; providing for hearings conducted by an administrative law  
178 judge; providing an effective date.

## COMMITTEE MEETING REPORT

### Civil Justice Committee

4/4/2006 10:15:00AM

Location: 24 HOB

HB 7123 : Child Protective Services

<input checked="" type="checkbox"/> Favorable					
	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 7		Total Nays: 0			

#### Appearances:

Child Protective Services

Deborah Lacombe (Lobbyist) (State Employee) - Proponent

Guardian Ad Litem Program

600 S. Calhoun St.

Tallahassee FL 32399

Phone: 850-922-7213

Committee meeting was reported out: Tuesday, April 04, 2006 12:15:40PM

## COMMITTEE MEETING REPORT

### Civil Justice Committee

4/4/2006 10:15:00AM

Location: 24 HOB

HB 7157 : Fraudulent Use or Possession of Identifying Information

☒ Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Dean Cannon	X				
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 7		Total Nays: 0			

Committee meeting was reported out: Tuesday, April 04, 2006 12:15:40PM



## COMMITTEE MEETING REPORT

### Civil Justice Committee

4/4/2006 10:15:00AM

**Location:** 24 HOB

#### **Summary:**

#### **Civil Justice Committee**

*Tuesday April 04, 2006 10:15 am*

HB 173 CS	Favorable With Committee Substitute	Yeas: 7	Nays: 0
HB 457 CS	Favorable With Committee Substitute	Yeas: 7	Nays: 0
HB 459	Favorable	Yeas: 7	Nays: 0
HB 817 CS	Favorable	Yeas: 7	Nays: 0
HB 857	Favorable	Yeas: 7	Nays: 0
HB 1323	Not Considered		
HB 1521	Favorable With Committee Substitute	Yeas: 7	Nays: 0
HB 7123	Favorable	Yeas: 7	Nays: 0
HB 7157	Favorable	Yeas: 7	Nays: 0

Committee meeting was reported out: Tuesday, April 04, 2006 12:15:40PM